



PREVENTIVE LAW SERIES

VA SURVIVOR BENEFITS: DEPENDENCY & INDEMNITY COMPENSATION



Prepared by:
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WHAT IS DEPENDENCY AND INDEMNITY COMPENSATION (DIC)?

Under this program, the Department of Veteran Affairs (VA) pays a lifetime payment each month to eligible surviving family members upon the death of an active duty or retired service member.

WHO IS ELIGIBLE FOR DIC PAYMENTS?

DIC payments may be available for surviving spouses who have not remarried or remarry after age 57, unmarried children under age 18, children between the ages of 18 and 23 if attending a VA-approved school, and low-income parents of deceased service members or veterans. If a spouse remarries, he or she is no longer entitled to DIC payments under most circumstances. Eligibility for the DIC payments may be restored if this latter marriage is terminated later by death or divorce.

The death of the member or retired member must be service-connected. If the member was still on active duty, there is a presumption that the death was service-connected. If applicants for the DIC payments are survivors of a retired or separated service member, then the survivors must show the death was connected or caused by service in the military. Dependents may be eligible if the deceased service member died from: (1) a disease or injury which was incurred or aggravated while on active duty or active duty for training; (2) an injury incurred or aggravated in line of duty while on inactive duty training; or (3) a disability compensable by the VA. The VA makes the ultimate determination on service-connection for purposes of DIC payments. In order to qualify, death cannot be the result of willful misconduct. Willful misconduct involves deliberate or intentional wrongdoing with knowledge of or wanton disregard of consequences. The VA makes the ultimate determination on willful misconduct for purposes of DIC payments.

HOW MUCH ARE THE DIC PAYMENTS?

Payments are available to certain surviving spouses and qualified children. Visit: http://www.benefits.va.gov/COMPENSATION/resources_comp03.asp, to find the current payable amount, or please visit a legal assistance attorney. Payments are adjusted periodically as Congress approves Cost of Living Adjustments.

DIC payments are NOT taxable income to the recipient. They are NOT included in the value of the deceased service member's or retiree's gross estate. A spouse's Survivor Benefits Plan (SBP) annuity is reduced by any DIC amount received (please see the SBP handout for more information on that program).

HOW DO I APPLY FOR DIC PAYMENTS?

DIC is NOT automatically payable to survivors. Survivors must apply for DIC by completing VA form 21-534. You must apply to the nearest VA Regional Office within 12 months from the date of death to receive full payment. If the VA receives the application more than 12 months after the date of death, payments are retroactive to the date of application only. Appeals of denials can be made to the Board of Veteran's Appeals and afterwards to the Court of Veteran's Appeals.

LEGAL ASSISTANCE SERVICES

WARNING: PROVIDED FOR INFORMATIONAL PURPOSES ONLY AND NOT INTENDED TO BE TAKEN AS SPECIFIC LEGAL ADVICE.
FOR LEGAL ADVICE IN A PARTICULAR SITUATION, ALWAYS CONSULT WITH AN ATTORNEY.

A legal assistance attorney is available by appointment Monday from 0800 - 1100 and 1300 - 1500, Tuesday through Thursday (excluding the fourth Wednesday of the month) from 0900 - 1100 and 1300 - 1500 and Friday from 0900 - 1045. Powers of attorney and notaries are available at the same times. For more information, please contact the Legal Assistance Office, located in Building 56, 32nd Street Naval Station, San Diego, CA, by telephone at (619) 556-2211, or our office at Naval Air Station North Island – Coronado, Building 318 – Second Deck, above the Fleet and Family Support Center, Saufley Road, by telephone at (619) 545-6437.

RESOURCES

Department of Veterans Affairs Benefits: (800) 827-1000, www.vba.va.gov/survivors/vabenefits.htm;
www.vba.va.gov/VBA/benefits/factsheets/survivors/DIC.doc

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